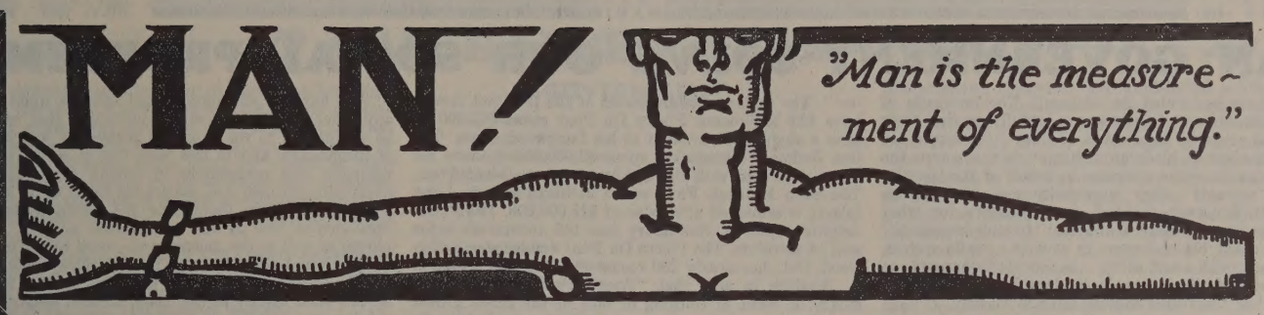
MAN!



"Man is the measure-ment of everything."

If There Is Anything That Cannot Bear Free Thought—Let It Crack—WENDELL PHILLIPS

Vol. 6—No. 7. Administration and Editorial Address P. O. Box 971, Los Angeles, Calif. Los Angeles, Calif., July, 1938 1 (417) Single Copies FIVE CENTS

SPAIN'S MENACE—COUNTER REVOLUTION—WITHIN

July 19, 1936—*July* 19, 1938! Two years of bloody struggle in Spain have already marked the pages of history with fascism's wanton massacres upon men, women and children on one hand and the heroic self-defense by every true lover of freedom on the other.

The struggle is far from ended. Yet, an evaluation of the salient phases of this gigantic war is in place. Some balance-sheet can be drawn up, pointing out those mistakes that could have been avoided, and chiefly pointing at such tactical mistakes as threaten to turn all the sacrifices that the people of Spain have made —to nought.

No one watching the unfolding of this counter-revolution against the people of Spain need be told of the open and secret manner in which fascist Italy and nazi Germany have been furnishing that monstrous butcher Franco with all the men, ammunition and provisions that his henchmen are in need of. All the so-called "international law" concepts have been spat upon by the Hitler-Mussolini-Franco trio.

Neither does any one have to be told of the role of duplicity that has been and is still being enacted by the so-called democratic nations via their diobolical infamous "Non-intervention Committee" creation. Every move, or refusal to make any move, by this committee has proven to be of direct or indirect aid in the designs of the Hitler-Mussolini axe.

Just as much as it is true that Franco could not have carried on his war of slaughter upon the people of Spain without the aid of Hitler and Mussolini, the latter could not have rendered that aid — if the "democracies" had but lived up to the prescribed "international law" concepts. The people of Spain were the sole ones, according to "international law" that had a "right" to obtain arms and ammunition. This right the "democracies", including a "pure" Marxian-socialist State (Russia), have and still are denying to them. At the same time—the "democracies" continue to supply Germany and Italy with all the arms, ammunition and provisions that the hordes of Franco are in need of. And whatever supplies of war the people of Spain have been receiving from abroad, is obtained via the sub-rosa road. So much for the worth of "international law"—when on one side a people are fighting for emancipation and on the other side the exploiters and rulers are fighting for a return to slavery.

In short, what we are witnessing in Spain, is: the leading governments of the world, fascists as well as "democracies", and a socialist one included, arrayed directly or indirectly against the people of Spain.

To the anarchist, this is no surprise at all. The State was born out of imposition and to maintain itself and perpetuate its reign—it must oppose any movement of a people that would set an example of re-building the new society outside of the fold of the State.

And it is the possibility of an anarchist experiment that has forced the fascist, democratic and socialist Governments—to reveal themselves as one common enemy and bulwark against the materializiation of this possibility.

In the Spain of 1936 the strongest influential force has been the C. N. T. (Anarcho-Syndicalist General Federation of Labor) and the F. A. I. (Iberian Anarchist Federation).

Had the C. N. T.-F. A. I. been imbued with a Bolshevik ideology, they could have easily taken hold of the reigns of the Government in Spain and have instituted another duplication of a "dictartorship of the proletariat" State, as in Russia.

The C. N. T.-F. A. I. did not want to establish a dictatorship. That will forever remain to their lasting credit. Had they but gone one logical step further ahead in *refusing to condone the establishment of a new Government—the Revolution against Franco's counter-revolution would thereby have assured its immediate victory.* It is here where thee C. N. T.-F. A. I. made its most collosal mistake. *Instead of arousing the people against the re-establishment of a State they forgot their life-long principles and not only failed to arouse the people in this need, but instead, agreed to, and became cabinet ministers of the newly elected State!*

Being already in the cabinet of a Government the C. N. T.-F. A. I. spokesmen could no longer act as anarcho-syndicalists or as anarchists. They had to assume a new role: the role of the politician. (It must be pointed out here that the inroads of compromise within the C.N.T.-F.A.I. had made itself felt long before, in the Asturias blunder of 1934, as well as in the tacit approval of particiipation by its members in the February elections of 1936.)

Our comrades in Spain failed to realize that their entrance as cabinet members of a Government had nullified all their life-work, and, that, in turn, this was bound to have its bad repercussions upon the masses that they had heretofore influenced so much. And the series of compromises, exceeding all past ones, began to follow upon the heels of each other.

The Russian Government that was very well aware of the anarchist strength in Spain had refused at first to sell any arms and provisions to the fighting people. The P.O.U.M. (United Marxian Workers Party) carried a minor influence over the Spanish masses. In a shrewd manouevre, the Bolshevik Government made the stipulation for the selling of arms and provisions: the immediate suppression of the pro-Trotzkyite P.O.U.M. The C. N. T.-F. A. I. representatives in the Government agreed to this! Equally as shameful was the other stipulation: to conduct the internal affairs and the war along the lines ordained by the "loaned" Tchekists of the Bolshevik government! And to this too, the C. N. T.-F.A.I. spokesmen consented, failing to realize that by agreeing to these two infamous stipulations *they were agreeing to the eventual death warrant of the libertarian principles for which the C.N.T.-F.A.I. following has brought so many sacrifices in human life.*

Still sadder is the tale that need be told as to what happened when the pressure of the Russian Government forced out the Caballero regime, and with it the four C. N. T.-F. A. I. cabinet members. The chosen favorite of Russia, Negrin, refused to retain a single one of the C. N. T.-F. A. I. members in his cabinet. Had our anarchist comrades learned anything at all from their sad experience, they would haave utilized the opportunity to declare that never again will they agree to enter any Government set-up. But our comrades had seemingly learned only how to justify themselves in continuing to forget their prineiples, and forthwith they raised the cry: they must again be given representation in the new Cabinet! (After a year of imploratione they were finally given one cabinet seat.)

The tragical May-days of 1937 had already brought to the forefront the foulest sort of betrayal that those who hold the reigns of a Government are always capable of. From all the available facts the Government instigated the attacks upon the C.N.T.-F.A.I. controlled Telephone Building. The people rose en masse to defend and fight alongside with the anarchists. True enough, this was a critical situation: the revolutionary people were challenged to fight the enemies within its own ranks. And the challenge was accepted. Barricades were erected by the defenders, as the battle between the people and the Government attackers raged for days, with over 1,500 casualties!

What were the C.N.T.-F.A.I. representatives in the Government doing in the meantime? Fear betook them

TWO DOCUMENTS

PRIETO ADMITS GOVERNMENT'S TREACHERY

At last the most important part of the clean-up behind the lines has been accomplished. In Barcelona, as throughout the province, the machinery of the F.A.I. and C. N. T. has now been broken up; their most dangerous elements are in prison or dead; what is still more important is that those who have returned to reason are today convinced, or at least tamed.

But the strongest resistance having been broken, it will be very easy for us to carry on a repression without violence and without effort, but so efficaciously that the work will be completed shortly.

We still fear, however, that the brigades of these elements remaining at present at the front might leave to come to the aid of their organizations. But I believe they will not dare do so. It would be very difficult, moreover, for them to organize such a movement. Furthermore, we have decided to proceed on the various fronts with a series of offensives for which we shall use the F.A.I. and C.N.T. elements as shock troops. We have also decided to transfer these elements to the most dangerous sectors. Thus the Rebels themselves will help us to complete the clean-up for which we should be grateful to them.

By following this policy, we shall please, as you know, the three countries that have given us the most assistance and that have lately demanded such a policy from us. (Excerpt from a letter of May 25, 1937, at Valencia, and addressed to Fernando de los Rios, Spanish Ambassador in Washington. (L'Espagne Nouvelle)

* * *

A COMMUNIST'S EXPERIENCE IN SPAIN

I feel that I may speak with some authority since I was a member of the Communist Party before and during my six months in Spain and, after my recovery from wounds received in action, I was sent home to Toronto by that party to conduct a national speaking campaign.

It is true that when I first came to Spain (Jan, 1937) we volunteers from the Americas were welcomed and identified with the real revolutionary spirit which was strong and vibrant in the country. It was a proper indentification because we had enlisted with the understanding we were to fight not simply against Franco but for socialist revolution in Spain. By June, however, when I was wounded and invalided through various hospitals, to Albacete, things had greatly altered. In the first place, I found that international Brigaders were so unpopular with the average Spaniard that a party functionary ordered me, in the train, to remove my badges; in restaurants or parks where I tried to begin a conversation with the civilians with the explanation that I was a "Communist", I was greeted with black looks and prompt isolation. My party had gained in membership, certainly, but it was a gain among the business classes on the Loyalist side, and at the expense of the common people. In Murcia and elsewhere I saw that our placards and leaflets appealed for shopkeepers membership with the promise of absolute support of private property.

Gradually I learned that this was no mere trick of propaganda. Anyone inside or outside our Party who was openly against the protection of private capital was in danger of arrest by our own secret police. . . There, men who breathed a word against bureaucracy or stupidity from officers who were simply Communist Party functionaries without military training, were likely to be picked out for suicidal work, or sent on "leave" never to be heard from again. Despite the censorship, rumors reached us, too, that our Party leaders were supporting the Government in depriving anarchist peasants of their land co-operatives, turning the farms back into state or even private capital. Then, after May, there was talk of a joint attack by our Party and Caballero's own troops upon rival worker-parties in Barcelona. Officially we were told that "Trotzkyites" had tried a coup for Franco there; but the unofficial story was that the POUM (semi-Trotzkyite) and the Anarchists had been attacked, their leaders assassinated or jailed, and hundreds killed in the streets, in a forcible restoration of factories from worker-control into private capital again.

In the trenches you couldn't find out which was really true; if you showed too much interest you were arrested.

I left Spain convinced that our Spanish policy was nothing less than betrayal. Caballero was given Communist Party support to crush the mass parties of the Spanish workers and farmers, in order that the war against Franco might be made respectable and Spanish capitalism preserved. When Cabalerro proved too mild, the Communist Party threw him out and put in that openly defender of private property, Negrin. The jails of Loyalist Spain overflow with loyal fighters of fascism who are not also loyal fighters of capitalism. The masses know it; they never had faith in the Popular Front government and they have hatred now. It was not the Government which stopped Franco in the first place, but the self-armed rank and file socialists, anarchists, and POUM-ites; they halted the fascists, after the Popular army and air force had walked over to Franco, with arms stored for a future socialist revolution. The Communist Party has helped to push that day even farther into the future.

I left with one illusion—that the Communist International was unaware of the betrayals of its Spanish section. Arrived in Canada I found here, too, that I was required to disseminate lying endorsations of the counter-revolutionary role of the Spanish Communist Party. I refused and broke with the party. I harbor just as great a hatred of fascism as when I took up a rifle in Spain, and I wish to see the victory of the Loyalists; but I believe that only the truth can help their cause, and it is the truth which I have here told.

Henry Scott Beattie

(The Canadian Forum, April, 1938)

CAN GOVERNMENT SOLVE OUR SOCIAL PROBLEMS?

Congress has ended its "labors". The hundreds of U. S. Senators and Congressmen joyfully packed their grips and returned home. Most of "our" legislators did their damndest to block any attempt to enact even the remotest ameliorative measures in behalf of the 'people' whose "servants" they supposedly are. Nevertheless President Roosevelt thanked the legislators for what they have done, delivered another "fireside-broadcast" twaddle about his endeavors to save the profit system, —and thus, with a sort of " . . . is everybody happy? . . . —the greatest of all hoaxes in American politics, the "labors" of the 75th Congress came to an end.

What about the grave problems that are confronting us and that were to be solved by the democratic "new deal" promising administration? The depression is again stalking over us to the tune of fifteen million people willing to do any kind of work—but with no prospective buyers. A slowly mounting crisis promises to bring us more suffering than the 1929—1933 crisis. Congress has assured us funds are to be doled out again that will keep "one third of the nation" underfed, underhoused and underclothed. The Federal Housing Administration is to help build about forty to fifty thousand homes—when there exists a shortage of a half million dwelling houses. Unemployment in the clothing industry is to be solved by the union and the government, the latter buying up about ten million dollars worth of suits and distribute these among the unemployed. To the unemployed 100,000 clothing workers it would give work on as much as eight garments for each jobless worker. Hardly a solution as anyone can readily see.

The much ballyhood wage-hour bill that was finally passed in an emasculated form has already proven itself a boon to the scheming exploiters of how to reduce wages and increase hours of work to the minimum allowed by the new law. This much came already to light from the secret confab on July 7th between Mr. Hillman of the Amalgamated and President Roosevelt.

The Agricultural Department of the Government is again paying out cotton farmers not to plant cotton, and is now proposing to pay wheat growers not to plant wheat. In our own sunny California, tons of cantaloupes and apricots are now being dumped in order to keep up prices and not to overflow the market with a bounteous crop, and a similar disposition is to be made with all other fruit and vegetable crops.

By way of contrast with the plight of the have nots, let us look at the haves, how the latter are faring amidst the rising depression. Total corporation dividends for the year of 1937 amounted to $4,550,000,000. The total cost of the Roosevelt Job-recovery plan, 1938-40 . . . . $3,247,025,000. Quite a contrast!

When it comes to housing, Ferdinand Lundberg reveals some interesting facts in "America's Sixty Families". The various establishments of the Du Pont family have 723 bathrooms. Pierre Du Pont spent $25,000 to have a single bush brought to his Longwood estate. The late Rodman Wanamaker spent $1,000,000 to have his estate decorated with fine specimens of small-leafed box. The main Marshall Field estate in Lloyd's Neck, Long Island, is estimated at a value of $15,000,000. The Philadelphia estate of Stotesbury has 145 rooms, 45 baths and 14 elevators. The Pierre Du Pont residence at Longwood, Del., has nearly 200 rooms and over 100 servants.

Needless to add, that "America's Sixty Families" suffer no want of clothing or lack of the finest grown foods in the world, as the many highest priced stores in the country fully attest to.

* * *

What is labor, employed or unemployed, organized and unorganized, doing to counter-act the deplorable state of affairs in which it finds itself?

The unorganized employed are inarticulate as far as any one could take any note of. The same must be said about the greater part of the unemployed. Those who constitute part of the several unemployed organizations are chiefly engaged in obtaining more substantial doles from the Government agencies.

Organized labor cannot be credited with much more than the several unemployed organizations are attempting to do. In fact, its utter bankruptcy is to be seen from the manner in which the spokesmen of the A. F. of L. as well as of the C. I. O. have so readily collaborated with the "new deal" administration in the latter's unrelented attempt to do everything possible for assuring the perpetuation of the present profit system, and leaving one third of the nation in exactly the same plight as it was in 1929-1933.

The tactics of the labor leaders has been more and more of a kind that implied: if the Government will help us build up our unions, we in turn will aid the Government in safeguarding the profit system. To achieve the carrying out of this deceit—the people were made to believe that all their needs and sufferings will be attended to by—the Government.

The disillusion of the workers may be slow in its development. But all the tricks of the leaders of the unemployed organizations, of the Greens and Lewises will not prevent the disillusionment from becoming wider and more apparent. The latest trick of these labor Messiahs is to turn the labor movement into a political-job seeking one. The far-sighted worker need but to take a close view of what this sort of delusion has brought to the workers of Austria, Germany, France and Great Britain in order to fully realize what is in store for the workers here—should they be naive enough to follow in the footsteps of the already disillusioned workers of those European countries.

We have at all times looked askance upon this or any other Government as an institution that can truly be of any aid to the exploited masses. It was born out of brigandage, and to this very day it is but the chief protector and perpetuator of human exploitation. We never did, nor ever can, expect the State to do anything that would really undermine the profit system. The organized as well as the unorganized workers, the employed as well as the unemployed—need as yet to realize the truth and correctness of the Anarchist position.

The solution of our social problems can not be solved by any such agency as the State, since it constitutes the chief prop of the very evil system from which we all suffer. Neither can they be solved when labor leaders will become a part of the State.

The true and only solution lies within our own reach: *the crying need of expropriating everything that is at the disposal of man,* and which in turn, *with the aid of nature, man could build and create for itself plentitude and happiness,* as well as *equality of opportunity and justice.*

It is — we the people — that can alone slove our social problems.

Bert Hillside

From the C.N.T.-F.A.I. Delegation in France

Paris, France, June 23, 1938

MAN!
P. O. Box 971
Los Angeles, Calif.
Dear Comrades:

We just received your interesting letter of June the 8th and have been greatly touched by its content.

We take special notice of the Spanish Government prohibiting the entry of "Man!" an anarchist publication into the Republican Spain. There are arbitrary deeds that can only be explained by the imbecility and fanaticism of certain custom officers.

It would be kind on your part to let us have some copies of your publication. We should see that they reach our comrades in Spain. They would then judge this courageous pettiness.

We shall also publish a few lines in regard to the persecution of "Man!" and its editor comrade Marcus Graham. It has always been the case, those who defend and spread the truth pay for their activity with incarceration.

Wishing better times for the editor as well as for the courageous periodical we send you our affectionate greetings.

Por la Delegation Permanente de lo C.N.T.-F.A.I. en Paris.

M. MASCARELL.

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that the strength of the Government would crush the defense put up by the people, as also undermine the resistance offered by the fighters on the battle-field. They therefore set out immediately to make every endeavour to bring the challenging battle to a close. A compromise was reached. It was a partial defeat for the C.N.T.-F.A.I., but more so it was a defeat that began to undermine the confidence of the people in the entire struggle that they were engaged in.

The Negrin regime followed up the tragical Maydays by a wide-spread campaign directed at the jailing of every sincere revolutionist that the tchekists of Russia and Spain had singled out as inimical to its compromises at the expense of the revolutionary gains already achieved by the people.

The axe of the Governmental tchekists fell at first upon the P.O.U.M. following. Soon enough C.N.T.-F.A.I. followers began to be jailed as well. That is those that were fortunate enough not to have been murdered in a cowardly manner as our valiant comrade, Camile Berneri, and many other comrades were. The number of imprisoned revolutionists had already reached the astounding figure of 15,000!

In the midst of a struggle where thousands of men women and children are being massacred by fascist-cast bombs, and where thousands upon thousands of the finest and bravest are dying so that Spain may at last be emancipated, in the midst of such a struggle the supposedly "anti-fascist" government found nothing more important to do, than to jail 15,000 revolutionists!

The manner in which the Cabellero and Negrin Governments withheld arms from distinctly anarchist known battalions, or rushed them unprepared to the fore-front, is as yet not fully known in all its treacherous ugliness.

But the Negrin regime by no means limited its campaign of counter-revolutionary work to the jailing of the most uncompromising revolutionists. It followed this up by a gradual procedure of "liquidation" of collectivized property, as well as a returning of the expropriated property to its former exploiters! (The readers attention is called to the two documentary proofs that appear on page one: Prieto Admits Government Treachery and A Communist's Experience in Spain. Both documents bear each other out. No stronger proof need be brought forward to substantiate all that has been said herein about the Communists and the "anti-fascist" Government.)

What other effect could such counter-revolutionary acts by the "anti-fascist" Government of Spain have upon the populace at home or at the battle-fronts—except one of *undermining every faith that this was a war for social liberation?!!*

What has the C.N.T.-F.A.I. done to counter-act the counter-revolutionary acts of betrayal by the Negrin government? Its press accepted the muzzle that has been placed upon it by the tchekists of Russia and Spain ever since the assassination of comrade Berneri! No doubt its spokesmen have been imploring and begging of the Negrin regime to lessen its demoralizing acts of betrayal. But since when has it become a custom for anarcho-syndicalists and anarchists to implore and beg anything of traitors, let alone to work alongside of them?!!

Everyone understands very well that in the self-imposed silence and inactivity to react upon the counter-revolutionary misdeeds of the "anti-fascist" regime in Spain—the C.N.T.-F.A.I. have only one motive: not to break-up the anti-fascist front, in fear, that such a break-up might bring about an immediate victory for Franco.

But cannot the C.N.T.-F.A.I realize that their silence and failure to re-act has already brought about such a disastrous situation that even a *victory of the Negrin regime will find all the heroic sacrifices of the people of Spain in exactly the same economic destitution and political oppression as they were prior to July* 19, 1936?

What our comrades in Spain have completely lost sight of is the fact, that: *the revolutionary acheivements of the people in revolt are alone the sole and strongest forces that could inspire that much needed enthusiasm for them to win the war againt fascism.*

If the destruction of the revolutionary achievements and the re-introduction of exploitation and political oppression is allowed, then the basic forces that had inspired the people to fight on and sacrifice as they so heroically have done until now, are being gradually destroyed.

The tactics of the C.N.T.-F.A.I. may possibly aid the "anti-fascist" regime of Negrin to win the war. But these tactics will, at the same time, also have made possible the *loss of the greatest possibility that has ever offered itself in Spain for a successful libertarian social revolution.*

* * *

Much is being written in the Spanish press about the failure of the International proletariat to rally more effectively to the defense of the struggle in Spain than by mere material aid. It is most likely that the "leaders" of the 20 million organized workers throughout the world would hinder real aid under any circumstances. Yet, an uncompromising struggling revolutionary people could easily have evoked far more direct and effective help than it has evinced from the workers abroad. In this connection let no one forget the thousands of volunteer fighters that went to Spain from every corner of the Globe. Let us also recall the manner in which the allied soldiers were affected in the struggle of the workres of Russia in 1918! The memory of those glorious days of evinced solidarity gives but a glimpse as to what might have but repeated itself in Spain less than 20 years later. But, as already said, a compromising revolution can not and should not expect to be able to bring forth the very same spirit of solidaric action that an uncompromising one (as the one in Russia, 1918), was capable of.

* * *

No struggle for emancipation ever found itself in a more precarious situation than does the one in Spain today. The people have proven their courage and willingness to fight on to the bitter end. This makes it even more imperative for our comrades in Spain to realize —ere its too late—that with each passing day that they let go by on the risky road of compromise, that they are now traveling, threatens to turn the entire heroic struggle and sacrifices that have and are being made, into a disastrous, indefensible and unforgivable catastrophic defeat!

And this disaster that now menaces the struggling people of Spain, must not be allowed to take place.

If our comrades come forward at once with ringing calls for a *retaking of every revolutionary gain that the Negrin regime has destroyed*— the people will not fail to respond.

Only to the extent that the people of Spain will become aware of having retaken the lost gains of the revolution, only to that extent can a victory over fascism be assured.

And equally so can this re-assertion of revolutionary fervor evoke that kind of solidaric action from the international proletariat that would make the defeat of fascism, and its indirect counter-revolutionary ally within Spain, the "anti-fascist" government, a certainty.

If our comrades fail to act, and instead continue on the road of compromises that they have embarked upon, with the Cabellero regime of yesterday, with the Negrin one of today, or with any new regime of tomorrow—they will thereby seal not only the doom of every social libertarian gain that the people of Spain have achieved, but equally so cause the crushing of every trust and hope that the oppressed in Spain, as well as throughout the world, held out with the movement and its spokesmen that professed allegiance to the principles of non-rulership and non-exploitation of man over man —the basic prinicples of Anarchy.

MAN!

IT CAN HAPPEN HERE, TOO...

You probably recall how the dictator idea has originated in Germany, It happened in a small beer garden. A tin-can officer who served in the Austrian army during the world war gathered around him a handful of career-seekers listening to his plans for a Nazified Germany who got captivated by the splendid idea of becoming uniformed troopers in a Nazi government; result a new totalitarian state under the leadership of Adolph Hitler was born.

You probably also remember how fascism was ushered into Italy. A former socialist, Mussolini by name, headed a mob of black-shirters and merely gave the command for a patriotic march upon Rome.

At first these adventurous movements were looked upon with a sort of shrug-of-the-shoulder indifference, and at times even with a kind of good-natured ridicule. In fact, the initial "putsch" by Adolph Hitler and his howling throng met with complete disaster. A like fate threatened Signor Mussolini's adventure before Victor Emanuel graciously invited his entry into the Holy City.

What serious proportions fascism has assumed in later course of political events need hardly be retold. Today a whole human race stands perplexed and bewildered: Two common ordinary human beings (we are obliged to call them humans to benefit the script) are not only the supreme commanders of the European continent, but actually have the whole world at their mercy.

Out here on this side of the Atlantic we live in a democratic (so to speak) form of government. Our democracy is guided by an iron-clad Bill of Rights that safely guarantees a certain amount of freedom. It therefore never dawned upon the American public, living in tradition of civil rights and civil liberties, that an insignificant character of the poolroom type would rise to destroy and trample under foot all those traditional rights and liberties guaranteed them by the Constitution; and so they almost all chanted in unison: *It Can't Happen Here.*

Can't it?

Let us glance over what is now happening in Jersey City; One of those familiar cheap politicians, Frank Hague, by name, who for 24 years has been mayor, judge, chief cook and bottle-washer of Jersey City, took it upon himself to emulate the role of a European dictator and introduce some sort of dictatorship right here in his own home town. What he needed first was some kind of a catchy slogan that would rally the rough-and-tumble elements of his principality to the Hague banner. He did not need to rake his brain very long for that; all he had to do is wave the flag and shout Americanism! It worked. A vast throng, counted in the tens of thousands, marched out with blazing fanfare and drum-beating to acclaim the great Fuerer of Jersey City.

That was a Heil signal for Boss Hague to begin looking upon himself as a real "fuerer", one who has been given the mandate to rule by I-am-the-law edicts and to disregard all rights and liberties enjoyed by the American people under the Bill of Rights.

Following closely in the footprints of his prototypes —Hitler and Mussolini—he resorts to throwing political opponents in jail, destroys freedom of speech and assembly, harasses those who insist on their rights, and finally, has his "storm troopers" ready at a given command to deport or browbeat people that dare question his authority to crown himself as the sole dictator over his sovereign principality

In Germany its origin evolved from the seeds of Aryanism.

In Italy it was Romanism.

In Jersey it is Americanism.

All in all it is fascism.

Like in Italy and Germany the Hague spectacle appears to the majority of people as one of those fads that need not be taken seriously. In the press and on the platform the rise of fascism in Jersey is often treated as a farce rather than a growing menace. The seeming popular feeling is that this Hagueism phenomenon is nothing more than a publicity stunt adopted from time to time by an ambitious politician for the purpose of rising into prominence. Such placid attitude would probably be justified if we could look upon the whole affair as a Jersey product, which eventually will melt itself in some cold storage, or otherwise become isolated from the rest of the country. From all appearances, though, this arrogant, malevolent and hard-boiled politician boss of Jersey City does not represent "Hagueism" as the sole potential ideology, but is rather a symbol of our time. He seems to have a stronger power behind him than people might imagine. The arrogance with which he threatens to send opponents into concentration camps he would build somewhere in Alaska has the ghost of a Hitler or Mussolini standing in back of him. The sacred duty which he has sworn upon himself to combat Communism, or people he calls "Reds", has the lofty idealism of that famous Hitler-Mussolini-Mikado combination. At any rate Hague is not the only power behind the throne. Someone other than the "Me" boss is directing the fascist movement in Jersey City.

In proof of these contentions the following factors stand out as basic evidence to the issue involved.

1) Boss Hague is vice-chairman of the Democratic National Committee and an ardent supporter of the New Deal. The sponsors of New-Dealism are Mr. Roosevelt and his brain-trusters, who also are at the helm of the Democratic Party. Why, then, if the New Deal Administration claims to be safeguarding the rights and liberties of our democracy—why in the name of common sense and sincerity do these gentlemen tolerate a Hague type in their midst? Since the Democratic Party believes in the upholding of "law and order", and their President, as commander and chief of the army, has ample power to defend and protect, by force if necessary, the Constitutional laws of the land, why then is this little Napoleon tolerated as a prominent leader in the Party, and legally no action whatsoever is taken against the abuse of civil rights and civil liberties under Hague's dictatorship in Jersey?

2) While the obvious trend of the New Deal administration is that of "paternalism",—acclaimed, by the way, by all the liberal and radical groupings in the country—the aim of its totalitarian centralization policy can very well be detected; it may be observed in the stringent laws that are constantly being enacted for a gradual control and supervision over industry and labor. And if you think back you will recall that Mussolini's and Hitler's totalitarianism has succeeded in dominating their respective countries along these identical lines—only with this exception: while in Germany and Italy the industrial magnates more or less welcomed the protection of their interests by a centralized state and labor had to be regimented into perforce, here the capitalists stand out as the foremost opposition, while labor, that is, the paid officials of organized labor, sing paens to the rising tide of stately domination.

Personally Boss Hague may or may not be an outspoken fascist (if he is anything at all). Yet it is no mere incident that an obscure figure like a Hague is rising now in Jersey. He might be the forerunner of some greater national prominence, or the follower of, say, a Huey Long. No matter which though, when all facts are assembled they seem to indicate that what has been happening now in Jersey is bordering on the approval and consent of Washington. The whole administration, while openly proclaiming itself liberal has every symptom of fascist leanage. It may be observed in its domestic as well as in its foreign policies. The favoritism shown to Fascist countries by supplying them with all the arms and ammunitions while on Republican Spain (considered a leftist government) is clamped a strict neutrality law is also no mere incidental occurence; rather it is symbolic of the universal trend towards fascism.

At any rate, we cannot, and should not, be blind to the fact that *it can happen here, too* . . . .

Samuel Polinow

GOVERNMENT

Degenerate:
peering
from your benevolent
disguise
with lust crazed
eyes;
seeking
virgin peoples
and chaste idealists,
and finding one:

Baring your fangs
to show your love;
rearing back on your haunches
to show your perfection;
strutting to and fro
to show your virility;
drawing close
to show your protection;

And, then,
slugging, tearing, biting, growling;
pounding flesh
till
a sobbing shape
lies beneath your heil,
torn up inside alive,
unconscious now,
but soon be dead;

Now, bend over
in sympathy,
crying out your sorrow;
begging forgiveness;
being tender;
saying you were mad,
that it won't happen again;

Meanwhile,
looking for a new
victim.

ARNOLD BATES CARROLL

On The Block

◆ Today, ladies and gentlemen, our Santa is going to imitate a certain radio comedian, for which he hopes to get a great, big hand. Here goes:

"OUT OF MY WAY. OUT OF MY WAY!"

That's the mad Russian-ruler, folks . . . .

◆ There's one thing we can say about the Japs: they are very good imitators. The way they go about slaughtering those Chinese women and children couldn't be done better by any of our civilized murderers. . . .

◆ It is perfectly legal, said Mr. Hull on bomb shipments to Hitler.

Sure it's legal. You don't see Hitler peddle them without a license, do you? . . . .

◆ We fear they'll talk so much about peace that the human race will actually be blown to p-i-e-c-e-s . . . .

◆ A fairy tale for Fascist children: . . . . and then our Duce killed off all the kiddies in Spain and everybody was happy . . . .

◆ Our gentle Mr. Hull became so horrified by the Jap atrocities that he protested against their bombing of missionary property . . . .

What are slaughtered little babes
To those kind and noble gents,
Who think of Property that sells
For a Dollar and some cents . . . .

◆ Apparently when Sinclair Lewis wrote "It Can't Happen Here", he thought maybe Hague was somewhere in Holland . . . .

◆ The funniest thing about this Hague business is that the Communists also belly-ache for free speech—in Jersey . . . .

◆ A great calamity has befallen our Santa. He flunked in the graduation exams. We really thought he was a clever guy, but it seems he couldn't even answer a simple question like that, put to him by the college prof:

Prof.: Did you hear how our Mr. Hull became horrified about Japan's bombing of civilians in China?

Santa: Yes.

Prof.: Well, explain why he doesn't halt shipping of those bombs to Japan.

Santa: I dunno how to explain it, professor.

Prof.: No cap-and-gown for you, stupid . . . .

◆ We couldn't believe our own eyes when we saw an editorial caption in Daily Worker which read: "Must They Shoot Before They Wake Up?" Until we learned it refers to the German Bund we thought for a moment the ghost of Zinoviev dropped in on them . . . .

◆ There were some very excellent speeches given this year to graduating classes. Yet we think that bombs speak louder than words these days . . . .

◆ Reports are current that poor crops in Europe may be responsible in delaying the expected world war.

We can't see it. If man can kill man, we don't see why man shouldn't eat man . . . .

◆ Eight thousand innocent women and children torn to shreds in Canton? 10,000 women and children bombed and slaughtered in Barcelona? Ships and crews are sunk in mid-ocean? Don't despair; Congress has just passed a minimum wage law for 25 cents per hour. . . .

◆ The Communists are now wooing the Catholics into a friendly relation.

We always thought all Jesuits have something in common.

◆ Someone on our editorial staff has committed a murder. Yessir, a deliberate, premeditated, cold-blooded murder. You don't believe it? Well, here are the facts: In the May issue we had submitted this clever remark: "And speaking of glory the dead Fascists can have all the glory they want".

Now read it and see if it isn't moider . . . .

◆ At their Tenth Convention, the Communists suddenly accepted the principles and ideals of Jefferson and Lincoln.

That's alright with us; but we are just wondering what they are going to do with the principles and ideals of Stalin. Are they going to renounce them? If they do that they ought to commit suicide; they can't expect him to shoot them from such a long distance, can they? . . . .

Santa Panta

THE CHINESE ANARCHIST MOVEMENT

The Chinese Anarchist movement began with propaganda by the deed as well as by the word. But neither proved of much value, as far as immediate results were concerned. We then turned our activity upon the middle-school education, as the late Labor University, as also upon the Canton Machine Workers Union.

Some time ago the suggestion was made by comrades in our midst to change our programme from a pure anarchist one to an anarcho-syndicalist one. That was the last phantom that blew up by events in Europe. As we think, the Chinese Anarchist movement has its own road, according to its own needs and circumstances. It has to remain independent from all foreign Labor movements, working out its own programme —that is—a Rural Revolutionary movement.

By word-propaganda and student-education we are only aiding in our development. The main programme will be the Rural Commune Movement, which embraces Rural Education, Rural Reformation and Direct Action.

The Eastern Young Anarchist Association was formed three years ago. It is not an open, but a clandestine movement. It does not engage in the written or spoken propaganda, but in revolutionary deeds only. And according to the real necessity of our movement, it is composed of a General Committee divided in six parts—all responsible to the Association.

The Sparkling Stars Group is an active open Group. It issues our monthly "The Sparkling Stars". After the third issue had made its appearance the Foo Chien Government put its taboo mark on it. From now on we intend to issue the Sparkling Stars Series, and make it the more stronger and active in its work among the students and Youths.

Incognito*

—*The reader can easily understand as to why the real name of the writer cannot be given.—EDITOR.

ATTORNEYS' BRIEF EXPOSES THE INJUSTICE OF

STATEMENT OF CASE AND ISSUES

This is an apeal by an alien who refused to obey the Court's order, issued under purported authority of 8 USCA Sec. 152, that he answer certain questions asked him by Immigration Inspectors of the Department of Labor. A demurrer to the alien's Plea in Bar was sustained, the alien convicted of contempt of court, imprisoned, and subsequently released on bail. The issue in this appeal appears to be as follows (Same as Assignment of Errors, p. 87 of Record)

I.

Whether in a contempt hearing under 8 USCA Sec. 152 the Court may refuse to review the fairness or lack of due process in deportation (expulsion) proceedings before the Immigration Service, thus depriving defendant of the due process guaranteed by the Fifth Amendment.

II.

Whether in a contempt hearing under 8 USCA Sec. 152 the Court may refuse to review the jurisdictional facts and authority under which the Immigration Service is conducting deportation (expulsion) proceedings and whether the Court may make findings of jurisdictional fact unsupported by any competent evidence thus depriving defendant of the due process guaranteed by the Fifth Amendment.

III.

Whether each and all of the questions set forth in the information were material and authorized under 8 USCA Sec. 152 and the Immigration Law.

IV.

Whether in expulsion proceedings an alien may be compelled to answer questions which would tend to incriminate him under federal and state criminal statutes and thus deprive him of his rights under the Fifth Amendment.

V.

Whether the contempt provisions of 8 USCA Sec. 152 are applicable to cases involving expulsion proceedings for acts done *after* entry into the United States.

VI.

Whether the contempt provisions of 8 USCA Sec. 152 are applicable to proceedings against an alien against whom a final deportation order has already issued when the sole purpose of the proceeding is to secure information required by a foreign country before it will issue a passport to effectuate the deportation of said alien.

INTRODUCTION

Even before the Morgan case a fairly complete judicial control was excercised over public officers, administrative boards and commissions in four general ways:

1. By civil suits or criminal prosecutions against such officers in their private capacity for alleged illegal acts committed in the discharge of their official duties. (Appellant's assignee has filed a civil suit for the unlawful search and seizure of his home where arrested by the Immigration officers, Page 19 of the Record).

2. By the opportunity of Courts to pass on the validity of the acts of such officers where the latter were obliged to resort to the Courts for aid in enforcing their orders. As actions at law to collect taxes or a penalty; or actions to secure the enforcement of orders of the old Interstate Commerce Commission, the National Labor Relations Board and the Federal Trade Commission, and in such a proceeding the Court had of course to pass on the validity of the order.

Federal Trade Comm. Claire, 274 US 160, 47 S Ct 553

Dickinson "Administrative Justice", Chap. III, pp. 39-49 and such is the type case here involved, in which the administrative officer comes in and asks the aid of the District Court, and the validity of their proceeding and jurisdiction are placed in issue.

3. By means of the extraordinary Writs of Mandamus certiorori, habeus corpus and injunction. The purpose of these writs is to protect individual rights where administrative decisions may be directly enforced without the aid of the Courts, or where, because of the nature of the administrative action in question, a subsequent suit against the officer would not afford an adequate remedy.

And as the District Court quotes in its opinions (p. 55 Bill of Exceptions), "The jurisdiction of the Courts is contingent and *usually* to be excercised by a writ of habeus corpus ex post facto of an order of deportation" (Italics added by appellant).

Imperiale vs. Perkins (App D C 1933, 66 Fed (2nd) 805, 806)

4. By express statutory provision that an "appeal" from their orders may be taken to a Court.

MAN!

A Monthly Journal of the Anarchist Ideal and Movement

MARCUS GRAHAM, Editor

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FREEDOM OF THOUGHT ON TRIAL

In the brief filed by attorneys L. B. Stanton and A. L. Wirin of the American Civil Liberties Union, with the Ninth Circuit Court of Appeals at San Francisco, that is being presented on these pages, even the most doubtful will find the strongest indisputable array of facts that substantiate our contention that the sole and only issue in the 19 year-old persecution of Marcus Graham is the one of Freedom of Thought and of its Expression.

Realizing the importance of making known this able brief, we have decided to include it as a part of the contemplated pamphlet that we are about to issue. It will replace the excerpts "Defenders of Freedom of Thought Throughout the Ages" as given in the Dec.-Jan.-Feb. issues of MAN!. In addition, the pamphlet will contain the facts of the Four Years Government Persecution of MAN!, as also the speech of Marcus Graham before being sentenced to six months imprisonment for refusing to testify against himself.

We are determined to place this pamphlet before every author, editor and college teacher of the country. This will entail an enormous expense and we rely upon the material support of every liberty-loving person to make this possible.

We also call upon all individuals and organizations to forward to President Roosevelt and Miss Frances Perkins, Secretary of Labor, protests against the persecution of Graham, and demanding that the 19 year-old deportation warrant, under which he is being continuously persecuted, should be dismissed once and for all. (Copies of said protests should be forwarded to the press as well as to our Committee.)

Likewise, we urge every individual and organization to aid us in the arranging of the nation-wide protest meetings that we are planning for this coming fall, and at which Marcus Graham will speak.

We are also now engaged in forming branches of our Committee in various parts of the country. New York City and Philadelphia have already made moves in this direction.

Your collaboration, morally as well as materially, will assure an immediate and ultimate victory, not only for Marcus Graham as an individual, but for the Freedom of Thought and the Freedom of the Press that are the sole reasons for his being persecuted by the agencies of the Government.

MARCUS GRAHAM FREEDOM OF THE PRESS COMMITTEE
P. O. Box 971, Los Angeles, California, U. S. A.

Fundamentally, the Courts have limited their review on the theory that the Courts are muleting public officers in damages or refusing to aid them, or restraining them by injunction, because the action which they have taken or propose to take, is not authorized by law. In short, the law of Court review of the acts of public officers becomes simply a branch of the law of *ultra vires*. The only question before the Court is one of jurisdiction and the Court has no control over the officers' excercise of discretion *within that jurisdiction*.

The District Court was of the opinion (p. 54-Bill of Exceptions) that review could only be had of a final order of deportation, usually by writ of habeus corpus. And as the District Court deemed this to be an entirely new proceeding, it thus avoided the necessity of passing upon the unfairness and due process issue.

The appellant is *not limited* to the remedy of habeus corpus, and under the second classification of judicial officers are acting within their authority; to determine the question of jurisdiction, and the validity of the proceedings, whenever the aid of a court of law is sought by the administrative tribunal. It is the duty of the Court when its assistance is sought, and a claim of ultra vires is raised, to determine whether the administrative officres are acting within their authority; to determine whether they come into Court with "clean hands". If they do not, they have no standing in said Court, and it should refuse to aid and become a party to their illegal and unauthorized activities. To refuse to rule on such a question, as the District Court did in this case, is to shirk its judicial function. It is for this very reason and to provide proper safeguards that the power to punish for refusal to obey a subpoena is confirmed to the legislative and judicial branches of the government and is not granted to the executive and quasi judicial bodies. So that the witness may have his day in Court. It certainly was not the purpose of Congress that in applying 8 USCA Sec. 152 the Courts should become a rubber stamp for the Immigration Service.

Fundamentally and beneath the surface this case involved the old-age problem of free speech and freedom of the press. It is allied to the recent Sallitto case, for the appellant herein, Marcus Graham, was the publisher of a periodical entitled "Man" and was the very party who rented space in the restaurant in Oakland for editorial rooms of said publication. It was for the crime of renting these quarters to this said publication that Sallitto was persecuted and finally ordered deported (p. 18 of the Record). It was only after a great wave of public sentiment by the liberal and intellectual people of the country who expressed themselves, that the powers that be in Washington set aside the order of deportation.

Subsequent to the Oakland incident, the appellant removed his publication to Los Angeles. However, the Immigration Service at San Francisco had not forgotten him and requested and secured authority for "Reopening" his case. If appellant had ceased his publication at this time we are morally certain the case would never have been reopened. As appears in Exhibit "M" (p. 72 of this Bill of Exceptions) immediately after appellant's arrest in October, 1937, Inspector Henderson stated to the appellant, "On March 18, 1936, the Department entered an order directing that hearing in your case be reopened for the purpose of getting information from you regarding your citizenship and that is the purpose of this hearing—". As is evident from the other portions of the Bill of Exceptions, and would be incontravertibly evident to anyone who would take the time to read the entire proceedings before the Immigrant Inspectors, which have been sent up in the original as Exhibit "M" of this record on appeal; the entire proceedings before said inspectors was based upon the original order of deportation of 1919. The sole purpose of the reopened hearing was to obtain information required by the Canadian or any other Government of the nativity of the appellant, prove it to their satisfaction, and for the sole purpose of making the 1919 order of deportation effective by the deportation of said appellant. And such was the understanding of appellant and his counsel up to the date of the hearing before the District Court.

1. DUE PROCESS

The District Court erred in sustaining the demurrer to the appellant's plea in bar on the ground that in a contempt hearing under 8 USCA Sec. 152 the Court may not review the fairness or lack of due process in deportation (expulsion) proceedings before the Immigration Service, and thus depriving defendant of the due process guaranteed by the Fifth Amendment.

Let us assume, for the sake of argument, that the "unfairniess" of the deportation (expulsion) proceedings could only be inquired into by the Courts *after a final order of deportation.*

It is believed that the appellant has already sufficiently indicated the complete lack of any evidence to substantiate the determination of the jurisdictional fact by the District Court that "The old warrant has become *functus officio*—. Hence the present inquiry is a new inquiry or investigatoin leading to the determination of the right of the alien to remain in the United States." (p. 55 Record).

It is difficult for the appellant to grasp the logic of this syllogism. It appears to be the Court's contention that if the Immigration Service erroneously thought that the old warrant was still valid and relied upon it as their authority, the Court could inform them of their error and ratify all their acts by telling them that although they did not know it they had been administering an entirely new proceeding. While such ex post facto absolution doubtless pleases the Labor Department, it certainly fails to safeguard the rights of the appellant alien. It does not absolve him of the days spent in jail without a warrant of arrest; nor of the expense of securing bail, legal defense; it does not absolve the Department of Labor of breaching Rule 19 of its own regulations, as well as the 5th Amendment.

Furthermore it must not be forgotten that the Plea in Bar (pp. 12-47 Record) alleged that the entire proceedings were based upon the old 1919 warrant (see line 13 p. 19; and Exhibits F and G pp.38-40 Record). For the purposes of the demurrer the prosecuting attorney in Open Court expressly admitted the truth of said allegations in the Plea in Bar. Therefore in considering the ruling upon the demurrer we must realize that it was expressly admitted that there were no *new* proceedings, but merely a re-opening and re-hashing 1919 proceedings, solely based upon the 1919 warrant.

Now inasmuch as the District Court has already indicated that the old warrant is *"functus officio"*, since it was not executed within a reasonable time and no excuse for the delay appearing; it must necessarily follow that the entire proceedings were *ultra vires*, "unfair" and contrary to "due process", and hence the appellant was not under the necessity of answering and should be discharged.

Seif v Nagle (CCA 9 1926) 14 F (2d) 416 certio dnd.
Ponzi v Ward (1934) Fed Supp 736

State Bar v Superior Court, 207 Cal 323, 278 P 432

That eighteen years is an unreasonable time appears from the following cases.

U. S. v Wallis (CCA 2 1932) 279 Fed 401

U. S. ex rel Lesafeld v Smith 2 F (2d) 90
Caramia v Nagle (1928) 28 F (2d) 955
Petition of Brooks 15 Fed (2d) 238

II. JURISDICTION

The District Court erred in sustaining the demurrer to appellant's plea in bar on the ground that in a contempt hearing under 8 USCA Sec. 152 the Court may not review the jurisdictional facts and authority under which the Immigration Service is conducting deportation (expulsion) proceedings; and in making findings of jurisdictional facts unsupported by any evidence; and in making findings of jurisdictional fact contrary to those admitted by the pleadings; thus depriving appellant of the due process of law guaranteed him by the Fifth Amendment.

A witness is not in contempt for refusing to answer where the court has no jurisdiction by reason of an insufficient complaint under a special statutory proceeding, or where the court has no jurisdiction to inquire as to the particular matter, or where it adopts an illegal meth-

"LEGAL JUSTICE" IN THE MARCUS GRAHAM CASE

od of making such inquiry. (13 C. J. Sec 37 p. 28; sec. 32 p. 25).

Flower v MacGuinness 112 Fed 377

The court may go back of the committment although it may allege jurisdictional facts and judge whether the committing court had in fact jurisdiction to inquire as to the particular matter.

People v Cassel 5 Hill (NY) 164

Where the Department of Labor makes a finding of an essential or jurisdictional fact which is unsupported by evidence, the courts have intervened by habeus corpus.

Zakonaite v Wolfe, 226 U. S. 272, 274-5

Where, as in the instant case, the District Court has made an erroneous finding of a jurisdictional fact, is that this was a *new* proceeding, the appellant is entitled to relief on appeal.

State Bar v Superior Court 207 Cal 323, 278 P 432

If this were a new proceeding solely based upon the order reopening the case, then it is clearly illegal and neither the Immigration Service nor the District Court had jurisdiction of the appellant because of failure to comply with the rules and regulations of the service and statutes laid down by Congress, and the requirements of due process of law.

The statutory direction in regard to deportation (expulsion) proceedings are limited to the brief statement that certain aliens "shall upon the warrant of the Secretary of Labor, be taken into custody and deported" (Act of 1917, Sec. 19, 39 Statutes, (1917), 8 USCA Sec. 155 (1926).

Rule 19 Subdivision A of the Immigration Rules and Regulations provides that the officers shall make thorough investigation of all cases where they are credibly informed or have reason to believe that a specified alien in the United States is subject to arrest and deportation on warrant.

Subdivision B of Rule 19—Application for Warrant of Arrest. Paragraph 1. The application must state facts showing *prima facie* that the alien comes within one or more of the classes subject to deportation after entry, and except in cases in which the burden of proof is upon the alien (Chinese) involved, should be accompanied by some substantial supporting evidence. If the facts stated are within the personal knowledge of the inspector reporting the case,such knowledge is based upon admissions made by the alien, they need not be in affidavit form.

Subdivision D—Execution of Warrant of Arrest and hearing thereon. Paragraph 1. Upon receipt of a telegraphic warrant of arrest, the alien shall be taken before the person or persons therein named or described and granted a hearing to enable him to show cause, if any there be, why he should not be deported.—At the hearing under the warrant the alien shall be allowed to inspect the warrant of arrest and shall be advised that he may be represented by counsel—.

In 36 Michigan Law Review 355 (Jan. 1938) is the following quotation: "it was formerly common practice for Immigration officers to arrest suspected aliens without warrants. Because this practice was clearly illegal, its discontinuance was ordered. Many aliens who would have been held under the old procedure and eventually deported now escape before warrants for their arrest can be obtained—. This situation can be remedied only by legislation, which has been recommended.—*Annual Report of Secretary of Labor, p.* 90 (1935).

Thus the Courts have held that the failure to follow the Rules of the Department of Labor, which are as binding upon the Department as upon the alien, makes the hearing "unfair"—, as a failure to forward the full record to the Bureau, with the findings and conclusions of the examining officer, the recommendations of the officer in charge, and any written argument submitted.

U. S. ex rel Ohm v Perkins (CCA 2 1935) 79 F(2) 533
Bilokumsky v Tod (1923) 263 U. S. 149

From the foregoing it is conclusively evident that in the instant case there has been a complete failure to comply with Rule 19 as far as a *new* proceeding is concerned, since no new warrant of arrest was ever requested or issued; nor has appellant or his attorneys ever been informed of the nature of the charges against the alien, other than the reading of the old 1919 warrant, and the receipt of copies of said warrant and the proceedings of 1919. These were evidently furnished in compliance with Rule 19 and show conclusively what the Department considered to be the basis of its authority. (See pp. 28-37 of Record).

For not even by the wildest stretch of the imagination could we say that the order to "re-open" the case (see Exhibit G, pp. 40, 68) satisfied the statutory requirement that such an alien "shall upon the *warrant* of the Secretary of Labor, be taken into custody—." (8 USCA Sec. 155)

The Courts have held that it is essential that at some stage of the proceedings the alien be informed of the charges against him, and be given an opportunity to introduce evidence in his behalf and rebut the government's evidence.

U. S. ex rel Murphy v McCandless 40 F(2d) 643, in which a writ of habeus corpus issued where the alien was held for deportation without a warrant of arrest and without a formal hearing.

Similarly an administrative order of deportation was reversed because the aliens had not been allowed to see the warrant on which they were arrested, or to consult with counsel before their hearing; and also because in the opinion of the Court the finding was contrary "to the indisputable character of the evidence."

Whitfield v Hanges 222 Fed. 745

And recently the Supreme Court has strictly limited administrative procedure by stating that "the right to a hearing embraces not only the right to present evidence but also a reasonable opportunity to know the claims of the opposing party and to meet them. This right to submit argument implies that opportunity; otherwise the right may be a barren one. Those who are brought into contest with the Government in a quassi-judicial proceeding aimed at the control of their activities are entitled to be fairly advised of what the government proposes and to be heard upon its proposals before it issues its final command."

Morgan v U. S. 82 S. Ct. 757 (Apr. 25, 1938)

Permit us to paraphrase additional language of the Morgan case.

No such reasonable opportunity was accorded appellant. The administrative proceeding was initiated by an order to "re-open" the case and by the arrest of appellant. No specific complaint was formulated—no warrant of arrest ever issued—thus, in the absence of any definite complaint, and in a sweeping investigation, hundreds of pages of testimony were taken by the various inspectors conducting the hearing and numerous complicated exhibits were introduced and questions asked of appellant bearing upon all phases of the past life of himself, his parents, his publication "Man", and his activities since birth (see Exhibit M Record of Proceedings before Immigration Inspectors).

From all the foregoing it is apparent that the so-called new re-opened hearing is fatally defective, ultra vires, invalid, violative of the Rules of the Department and of the Immigration Act itself, and constitutes a deprivation of the due process of law guaranteed to everyone within the United States, even to alien anarchists, by the Fifth Amendment to the Federal constitution.

Yick Wo v Hopkins 118 U. S. 356
Colyer v Skeffington 265 Fed 19

III. MATERIALITY OF QUESTIONS

The District Court erred in ruling that each and all of the questions set forth in the information (pp. 78-83 Record) were material and authorized under 8 USCA Sec. 152 and the Immigration Act.

For if the proceedings were de novo, no warrant of arrest had been issued, neither the defendant nor the District Court were appraised of the nature of the charges, if any, for which the alien was being held in custody and subjected to inquisition. Hence in the absence of a new warrant of arrest issued by the Secretary of Labor as required by law (8 USCA Sec. 155) and by the Rules of the Immigration Service (Rule 19) no charges existed. The question then arises, to what issues were the questions material? In the absence of any new charges it was impossible for the District Court to determine that the questions put to the alien were material, unless they were material to issues made by the 1919 warrant.

U. S. v Lee Hee (CCA 2 1932) 60 F(2d) 924
Bilokumsky v Tod (1923) 263 U. S. 149

On the other hand, if the proceedings were based upon the authority of the old 1919 warrant, inasmuch as the District Court has declared it to be *"functus officio"* the inquisition would be equally unauthorized and illegal. For likewise there would be an absence of charges and issues to which the questions might be held material.

IV. SELF INCRIMINATION

The District Court erred in ruling that in deportation (expulsion) proceedings an alien may be compelled to answer questions which would tend to incriminate him under Federal and State criminal statutes, and thus depriving appellant of the right against self-incrimination guaranteed by the Fifth Amendment to the Fedeeral Constitution.

It is admitted that said questions asked appellant would tend to incriminate him. Such were the allegations in appellant's Plea in Bar (p. 23 Record) and were expressly admitted to be true for the purposes of the demurrer (line 22 p. 67 Record).

The legality or illegality of the appellant's entry into the United States is no longer and can no longer be in issue. For an alien who entered illegal before June 30th, 1924 and has never left the United States is no longer subject to deportation for illegal entry. Congress having passed a statute of limitations or pardon, appellant is now lawfully within the United States, 76 F (2d) 204.

The District Court admits that "The constitutional guarantee of free worship and free expression apply to residents, either citizens or aliens who are lawfully in the United States." (line 4 p. 60 Record). But states that "The Supreme Court has held that in view of the civil nature of deportation proceedings under the immigration law, the guarantees of the Fifth and Sixth Amendments do not apply to them." The only support to this proposition is dicta in the Chinese Exclusion Cases (Fong Yue Ting (1892) 149 U. S. 698, where it was held a court trial constituted due process, the constitutional provisions securing the right to trial by jury, and prohibiting unreasonable searches and seizures, and cruel and unusual punishments, have no application.

However, since 1892 we have had the case of Bilokumsky v Tod (1923) 263 U . S. 149, in which all the constitutional rights of the alien are recognized. Bilokumsky was jailed on charges of city authorities that he had violated the state sedition act (p. 151). Judge Brandeis stated, "The ground for deportation involved a charge of acts which might have been made the basis of a serious criminal persecution. Criminal Code sec. 6 —*Since alienage is not an element of the crime of sedition, testifying concerning his status could not have a tendency to incriminate him.*" (p. 154) (Italics by appellant). "Since the proceeding was not a criminal one, Bilokumsky might have been compelled by legal process to testify whether or not he was an alien (p. 155) "—But here there was no denial of alienage;—moreover, the statement that one is an alien is not the confession of a crime—So far as appears, there was nothing in the circumstances under which Bilokumsky was examined which would have rendered his answer inadmissible even in a criminal case.—" (p. 157)

In short, the rule of the Bilokumsky case is not as the District Court contends, ie. that it denies to aliens the guarantee against self-incrimination, but rather it expressly recognizes that the alien *has* the privilege, but found that the questions put to Bilokumsky had no tendency to incriminate him.

This is stated in Headnote 4, "—*held,* that the admission of alienage which is not an element of the crime of sedition *would not have tended to incriminate him,* and that the immigration officers might properly have inferred the fact of alienage from his silence." p. 154, (italics by the appellant).

But in this case it is *admitted* by the demurrer that the questions put to Graham *would tend to incriminate him* under various state and federal criminal statutes.

Criminal Syndicalism Act, Calif Stat. 1919, p. 281
Seditious Conspiracy, 18 USC sec. 6
Seditious Acts, 50 USC secs. 33 and 34
Illegal Entry, 40 Stat 559; 40 Stat. 1829
Immigration Act, 8 USC 180-a; 45 Stat. 1551

And even without the demurrer the prosecution has not denied the incriminating nature of the questions put, nor has the Court denied their incriminating character.

The Supreme Court has indicated, but without definite adjudication, that in states where membership in an organization subjects an alien to criminal prosecution he may refuse to answer if he claims his constitutional immunity against self-incrimination.

Vajtauer v Commissioner (1927) 273 U. S. 103

While it has been held that deportation (expulsion) proceedings are of a civil nature; it has also been held that the privilege against self-incrimination may be claimed in civil actions and proceedings (70 C. J. Sec. 874 p. 721).

The other cases cited by the District Court in its opinion (p. 54 Record) have no bearing on the issue of self-incrimination.

The Fourh, Fifth, Sixth and Fourteenth Amendments are not limited to citizens but apply generally to all persons within the jurisdiction of the United States, including aliens, and the appellant.

Colyer v Skeffington 265 Fed 19. Though this is only the decision of a District Court, to our minds it is the most noteworhty opinion on the rights of aliens by any court. Judge Anderson heard Professors Frankfurter and Chaffee, who were amici curiae.

V. INTERPRETATION OF THE STATUTE

The District Court erred in ruling that the contempt provisions of 8 USCA sec. 152 are applicable to cases involving deportation (expulsion) proceedings for acts done after entry into the United States.

The District Court devoted the major portion of its opinion to what is often termed "judicial legislation", ie. arguments why a statute should be applied to a condition never contemplated by Congress.

For Section 16 (8USCA sec. 152) provides for examination by immigration inspectors of aliens and others for the purposes of "determining whether they belong to any of the *excluded* classes" enumerated in section 3 thereof; and section 3 (8 USCA sec. 136) in turn deals with aliens that may be *excluded,* not with aliens that may be *deported* (expelled) and the grounds upon which aliens may be so deported.

As a matter of fact, a reading of the Immigration Act (39 Stat. 874) discloses that the Act does not begin to deal with deportation (expulsion) of aliens until Section 18; that no section and no provision prior to Section 18, including Section 16 (8 USCA sec. 152), concerns itself with the deportation (expulsion) of aliens.

Our position in this connection is that it is not for the courts to re-write the Immigration Act, that this is the task of Congress. It was not the intent of Congress that Section 16 should apply to cases where deportation (expulsion) is sought because of misconduct after entry into the United States. For there is a great distinction between "exclusion" and "deportation" or "expulsion" proceedings and the rights of the aliens thereunder. (Ng Fung Ho v White 259 U. S. 276)

It is true that there is language in the case of Loufakis v U. S., 81 F (2d) 966, to the effect that Section 16 applies to deportation (expulsion), as well as to exclusion cases. Moreover it is upon this decision that the Department relied in re-opening the case. (Ex G p. 40 Record). However, in the Loufakis case the issue was the legality of the alien's entry; whereas there can be no question of Graham's entry as he has now lived here for 18 years, and the charge against him, if any, would

be for acts done *after* entry. Hence the Loufakis case is not controlling. In any case the decision consists for the most part in merely a quotation of the provisions of section 16 and a declaration that the court is not convinced by the contentions of Loufakis. It is the only case construing Section 16 and is neither good authority nor binding upon this court.

The District Court admits "if we examine the section in which the clause appears *it seems in the wrong place*". (p. 56 Record, italics by appellant). The Court then argued that to confine the inquisitorial power to exclusion cases would make a provision meaningless and senseless, "unless we postulate that Congress had in mind persons already within the United States". (lines 14-15 Record. p. 57). Appellant does not understand how the provision would be meaningless or senseless if confined to exclusion cases.

The District Court erred in its postulation. For Congress thinking of exclusion, never intended that the alien himself should be interrogated. For as indicated by the District Court, at the border the Labor Department doesn't need a subpoena to make the *alien* talk, in effect they merely say "No talkee, no entry".

Section 152 is really aimed, as any ordinary intelligent lay person reading it would say, at witnesses other than the alien. The purpose is to secure from others information about the eligibility for entry of the alien at Ellis Island. The purpose is to secure information to verify or refute the voluble and clamorous statements made by the alien seeking admission as to his moral and financial status, citizenship, destination; to check up on the White Slave traffic; to check on persons claiming entry as United States citizens.

VI. STATUTE AS PASSPORT AID

The District Court erred in applying 8 USCA sec. 152 to proceedings against an alien against whom a final deportation order has already issued when the sole purpose of the proceedings is to secure information required by a foreign country before it will issue a passport to effectuate the deportation of said alien.

If the proceeding is viewed as based on the 1919 warrant then the right of the alien to "enter, re-enter, reside in or pass through the United States" is not at issue. For this issue has already been determined adversely to the alien by the warrant of deportation. Moreover, as is indisputably evidenced by Exhibits F, G and H (pp. 38-41 Record), the purpose of the Department of Labor in re-opening the case, as disclosed by its official records, was, not to determine the alien's right to "enter, re-enter, reside in or pass through the United States", but merely for the purpose of compelling Graham "to give information concerning himself which may be of assistance in bringing about his deportation" (line 24 p. 38 Record); "information which may be of assistance in proving his nationality" and "it has not as yet been possible to obtain the consent of the Canadian authorities for his return" (lines 6 and 9 p. 40 Record). The foregoing conclusively shows that the sole purpose of the entire proceeding was to secure the information required by the Canadian authorities before they would issue a passport for Graham, and thus to secure the execution and effectuation of the old 1919 warrant of deportation.

CONCLUSION

We agree, of course, with James Otis, who protested against lodging arbitrary power in officers of the law and the danger in placing "the liberty of every man in the hands of every petty official."

Hence we take the liberty of quoting at length from another recent decision by the United States Supreme Court involving the limitations upon the authority and the conduct of administrative officers. We refer to the case of Jones v Security Commission 298 U. S. 1,23. Here are the words of Mr. Justice Sutherland:

"The action of the commission finds no support in right principle or in law. It is wholly unreasonable and arbitrary. It violates the cardinal precept upon which the constitutional safeguards of personal liberty ultimately rest—that this shall be a government of laws—, because to the precise extent that the mere will of an official or an official body is permitted to take the place of allowable official discretion or to supplant the standing law as a rule of human conduct, the government ceases to be one of laws and becomes an autocracy. Against the threats of such a contingency the courts have always been vigilant, and, if they are to porform their constitutional duties in the future, must never cease to be vigilant, to detect and turn aside the danger at its beginning. The admonition of Mr. Justice Bradley in Byrd vs. United States, 116 U. S. 616, 635, should never be forgotten: 'It may be that it is the obnoxious theory in its mildest and least repulsive form; but illegitimate and unconstitutional practices get their first footing in that way, namely, by silent approaches and slight deviations from legal modes of procedure . . . . It is the duty of the courts to be watchful for the constitutional rights of the citizens and against any stealthy encroachments thereon. Their motto should be *absta principus.*'

"Arbitrary powers and the rule of the Constitution cannot both exist. They are antagonistic and incompatible forces; and one or the other must of necessity perish whenever they are brought into conflict. To borrow the words of Mr. Justice Day, 'There is no place in our constitutional system for the excercise of arbitrary power.' Garfield v Goldsly, 211 U. S. 249, 262. To escape assumption of power on the part of the three primary departments of government, is not enough. Our institutions must be kept free from the appropriation of unauthorized power by lesser agencies as well. And if the various administrative bureaus and commissions necessarily called and being called into existence by the increasing complexities of our modern business and political affairs, are permitted gradually to extend their powers by encroachments—even petty encroachments—upon the fudamental rights, privileges and immunities of the people, we shall in the end, while avoiding the consequences of a supreme autocracy, become submerged by a multitude of minor invasions of personal rights, less destructive but no less violative of constitutional guaranties."

That was a case in which the Court zealously protected property rights. The principle which it laid down, however, is valid, and should of course be applied to the protection of political and civil rights with equal care and concern. The conviction of appellant based upon these deportation proceedings constitute a denial of that due process of law which the Constitution guarantees to all aliens as well as to citizens, and presents an example of lawless enforcement of the law which should be rectified by this Court.

Respectfully submitted. June 5, 1938.

LEE BAYLOR STANTON
A. L. WIRIN
Attorneys for Appellant

DEBASING ART

"JUDGEMENT DAY" by Elmer Rice. Produced at the Mayan Theatre, Los Angeles, Cal. June 1938.

The theatre has served from time immemorial as one of the most effectual branches of art in the transmitting, developing and growth of human thought. The tragedies as well as the comedies of Euripides and Aristophanes, the comedies of Molliere, as well as most of the plays by Shakespeare attest to this.

Our modern theatre is but an endeavor to follow in the footsteps of the immortal men of letters just spoken of. The social plays of Ibsen, Hauptmann, Gorky, Tolstoy, Shaw, O'Neill down to Odetts have all contributed to our own growth.

Elmer Rice is no novice in the modern theatre. His "Adding Machine" still remains one of the finest tragical satires on our mad-gone machine age. Rice is a craftsman. This he has proven again in "Judgement Day". In this play Rice has attempted to depict all the crimes and ugliness that are embodied in the monstrous bacchanalia that is now ravaging mankind the world over—fascism. A worthier effort no writer for the theatre could have thought of. That Rice has delivered a death-blow to every concept of fascism is beyond any doubt. And for this he deserves full credit.

Granting all that has just been stated I nevertheless hold that in "Judgement Day" Elmer Rice has debased art to the lowest level possible. Beauty, justice and truth constitute the three essential ingredients of true art. The artist that sins against any of these three ingredients—thereby debases art. And Rice has sinned against all the three concepts.

Rice took for his theme of "Judgement Day" the famous Reichstag-fire trial and the subsequent rise to power of Hitler. No wiser and more dramatic material could have been chosen for an epic play.

It is when one views critically the principal characters of Rice's play that one shudders at the desecrations he has committed.

The Bulgarian Communist Dmitrov is depicted by Rice as the most heroic figure of the entire drama. Van der Lubbe, on the other hand, is shown up as a sexual pervert, as a spy, as a simple tool of the nazis.

Are these two contrasting characters drawn true to life, in the light of what we know as to what really took place at the Reichstag trial?

At the real trial in 1933, Dmitrov was very far from the heroic revolutionary figure that the communist press has always wanted the world to believe. No self-respecting revolutionist ever arose in a court-room to demand the beheading of a fellow-accused. Dmitrov had the pitiful audacity to demand (one should never forget of whom this demand was made) of the nazi-henchmen the head of Van der Lubbe "in the name of the proletariat"! By this act alone Dmitrov stamped himself as a despicable Judas and not at all as an impeccable revolutionist.

At the real trial in Berlin an attempt was made to besmirch Van der Lubbe as a sex pervert, but it failed miserably.

Rice turns Van der Lubbe into a spy. In the real trial it was Van der Lubbe and not Dmitrov that had refused to incriminate a single one of his fellow-accused Communists. In the court-room not a single of the co-accused Communists had one good word of sympathy—except insults and abuse—for Van der Lubbe! In the face of all this Marinus Van der Lubbe took the full blame upon himself.

It can thus be seen who of the two characters—Dmitrov or Van der Lubbe was the true and heroic as well as impeccable revolutionist.

For his heroic and uncompromising stand Van der Lubbe paid with his head. For their compromising and cowardly stand every one of the other co-accused Communists gained their freedom.

This fact alone would damn Rice's "Judgement Day" as nothing else could any the stronger.

The true creative artist may and does broaden the thoughts of his depicted characters. But when the artist stoops to falsify and distort, to traduce and libel every act of a great character that he has taken for his subject—as Elmer Rice has done in "Judgement Day"—then such art becomes in turn: art debased, art disfigured, art falsified, art reduced to caricature and libel.

Elmer Rice may be a careful reader and staunch believer in every word that the Communist press prints. Yet, it might have done him a world of good to have also read what press representatives of the Associated and United Press had seen and heard and reported from the scene of the Reichstag trial of 1933. Had he done this, he never could have lent his talent to the traducing of one of the outstanding heroic figures of our modern times—Marinus Van der Lubbe.

* * *

Of the production and performance by the Federal Theatre at the Mayan Theatre in Los Angeles (and which has been transferred to the Hollywood Theatre) I have nothing but high praise.

If the sincere rank and file of the Communist movement, that so often picket embassies of fascist governments in protest of injustice, could only get to think for themselves, they certainly would be picketting every theatre where Elmer Rice's libelous "Judgement Day" upon Marinus Van der Lubbe is being played.

Marcus Graham

Book Reviews

THE PEOPLE'S FRONT by Earl Browder. International Publishers, N. Y., 1938.

It would be difficult to discover a book containing more downright lies, evasions and hypocrisy than is given in this attempt by the head of the Communist Party in the U. S. to contrast the supposed slavery of this country with the supposed freedom in Russia.

Those of us who know the tricks of the Communists know that hypocrisy is to be expected, but there are still millions of people in the United States who take words for deeds. This book does not tell of the latest Stalinist tactic; that of beginning their recent national convention in New York with the singing of the "Star Spangled Banner". I doubt if Debs or Ruthenberg would have approved of such chauvinism. And to what end? To achieve a "People's Front" between the U. S. S. R. and the United States in the coming World War! And yet Browder boasts of being a great force for peace. He should write a book explaining this super-Americanism. To be sure he boasts also of the fact that the Communist Party was the only party to favor a soldier's bonus. This ought to get a few patriotic votes.

The outstanding fallacy of the book is its insincerity. In the face of the execution of thousands and the starvation of millions who dared to oppose the Stalinist bureaucracy Browder states that, "We of the Communist Party never did and never will hold to a program of forcible establishment of socialism against the will of the people." In the face of Tolstoian vegetarians being refused permission to have a restaurant of their own in Moscow, Browder boasts that, "The Communists stand for unconditional freedom of worship." In the face of the regimentation of art and literature Browder tells the Second Congress of American Writers that, "We Communists are the last to want to regiment the writers."

While Stalin continues to sell oil to Mussolini to help Franco, as he previously sold oil to aid in the devastation of Abyssinia, Browder accuses the P. O. U. M. and a minority of the Anarchists of stabbing the revolution of Spain in the back.

The crowning insult to anyone living in America is the attempt to present the Soviet Constitution as a great improvement upon that of the United States Constitution, "The inaugeration of the new Soviet Constitution—high mark of democracy in world history." Browder speaks of gerrymandering in voting districts in the United States, of slavery being upheld until Civil War time, and of the corruption of the judiciary. Does he forget that anyone who speaks, let alone one who votes, against the Stalinist bureaucracy is in danger of death? In the darkest days of slavery in this country not a thousandth part were enslaved to the extent that slavery exists in the forced labor camps of Russia today. In this country the system of hostages, the idea of torturing the families of those who dared oppose the tyrant, was never thought of.

To enslave, murder and tyrannize over a people is nothing new in the history of the world, but as the same time to perform these acts and claim to be the most democratic and freedom loving nation in the world, and to keep in bondage those who cannot escape from the prison that is known as the U. S. S. R., while seeking the aid of democratic countries to strengthen the walls of this vast prison,—this is indeed the height, or rather the depth of hypocrisy.

Ammon A. Hennacy

* * *

FORGOTTEN WOMEN by Sister Mary Ethel. Valley Publishing Co., Middleton, Ohio. Price $1.05, Postpaid.

With the Catholic Church playing chief enemy of Labor and progress today, it again becomes the heroic duty of forward moving people to expose and fight this giant tyrant.

In "Forgotten Women" by Sister Mary Ethel, seven years a nun and Catholic teacher, we find the pious methods of Catholics well shown up and the convent system exposed. The book is scholarly and true; moreover it is dedicated to "the workers of the world", which shows where his ex-nun's heart is.

H. R. J.

ART and LITERATURE

DEATH WAITS

(A Timely Spanish Story)

It was a long narrow room, such as one would find in any part of this country. Most of the simple furniture, table, chairs were heavy, hand-hewn wood. There were brightly colored hand-woven mats and shining copper pots that stood unused now, upon the shelf. White curtains stirred at the small open window and a bright fire burned in the hearth. On a chair near the fire sat a woman of middle-age. Sleek black hair, with heavy bands of gray, parted in the middle and drawn tightly back to a small knot, a suntanned finely modelled face with large black eyes, she presented a picture of calm and quiet dignity in spite of the lines and furrows on her face that denoted care, worry and labor. In her lap lay an old garment, but her hands never idle, now lay quite still, holding the garment by force of habit. Now and then a tear fell on the soft cloth. It made a tiny spot, then became one with the cloth.

Ricardo a youth of 16 was standing near the fire, sometimes in his impatience he paced the room. "But mother," he was saying, "I can no longer stay home with you. I must join the comrades." "Son," his mother pleaded quietly, "is it not enough that your father was killed, and your two brothers? Now you also want to go—why you are a mere baby".

"I am not a baby, I am full grown, mother. Would you have me be less brave than my father—and brothers?"

"But you are still a boy, Ricardo. You have not seen life yet—nor tasted of its riches, and already you seek death? Oh, son, I had such high hopes for you."

"Mother dear, with the enemy pounding away at our gates; with our dearest kin and comrades dying, can we think of ourselves? Of what use this talk? It is not death I seek, but life, for the living. But there is only one thing one must think of —only one thing one can give now—oneself."

The mother sat silent. Her hands trembled so, her work fell on the floor unnoticed. She clasped her slim work-worn fingers, then looking with sad unseeing eyes into the fire said, "Once, not so long ago—I felt I had a home, goats sheep, chickens, life teemed within and without; my good husband greeted me in the evening after his day's work, my two sons came in with cheerful faces from their labor, my youngest son sat beside me at the supper table, my animals were fed and safe for the night, life was hard, but peaceful. I did not know what a beautiful thing it was. Now—it all is gone—all. . . the food, and live-stock to the soldiers, the father and two sons to the battle-grave and now—even my youngest. What will there be left? What should I do then?"

Her son ran to her and fell at her feet, his head in her lap. Her fingers ran through his curly hair and for a moment she clasped his head to her as if she would thus restrain it forever from all evils. She had always admired his hair, black, shining and curly like his fathers. For a moment he allowed her caress, then getting up and sitting down beside her said, "Mother, I know how you feel. But what can we do now? The enemy is strong—stronger than we are, in numbers, arms and machinery that is given them by Fascist countries, and if they conquer, you know well what would happen. Hard as things were before, they would be far, far worse. We would be slaves, beasts of burden, puppets in the hands of the State. We would not dare to call our souls our own. No—we must not let them pass—never—" He forgot to whom he was speaking toward the end, then remembering, he looked at her, stroked her hand gently and continued in lower tones—"To keep our country from falling into their hands, not one who can wield a rifle or shoulder a musket must stay behind—it would not only be cowardice, traitorous; to the one himself—it would be stagnation of spirit or death —so—let me die a glorious death—feeling I am helping our land in its great need."

"My boy, you speak bravely. Yes, of course I cannot, dare not keep you—so—you will go—yes,—but I—I too will go with you."

"You—mother?"

"Yes, why not? It would be as cowardly for me to sit here—and what is there for me to do here? Nothing. Nothing. No one to cook for—no clothes to bother about, no animals to tend, nothing. The days have been robbed of their usefulness and sleep has departed on silent wings. Only terror and nightmares always lurk and cause the soul and body to shiver in dread. Can it be any worse on the battlefield? So I will go with you. I am not so old, I am still strong; strong enough to face even death. There will be work there for me on the field, perhaps tending some other poor mothers' sons—" She rose up straight and tall. Ricardo also rose and gazed at his mother.

"You mean it, mother?"

"Never was more earnest, my boy. Come we will get ready."

"Get ready? What is one to get ready?" he asked. "Just walk out."

"Just walk out? Oh, no, son, for 30 years I've lived here, gathering treasures to store for my children and their beloved—now we shall leave it that it might fall into enemy hands?"

"You are right, mother. Let's destroy the whole place."

"Destroy it—no, I couldn't bear it. And are not our hopes high—suppose we conquer, then the house will be for us and our friends. Let us not destroy this fine old house, we have built with our love and labor, let it stand—but let us take what we can with us, and share it with our comrades there."

"Right you are, mother dear." He rose, put out the fire in the hearth while the woman went about the rooms opening chests and closets. She took all the food they had left, some preserved meats she had saved, cheese, their last loaf of bread. "This son," she said, extracting a small jug of wine from an old closet, "will be a treat to you there, and perhaps to some other parched lips."

Linoleum cut by R. Jones from a Drawing of Whitford Carter

"Let me carry it for you, mother."

"No, I am well able to do that. You have your gun and things and that is burden enough for your young shoulders."

She placed the things together and tied them in a red shawl. She put another one about her shoulders. "Coming, mother?" he called, standing at the door. "We should hurry."

"Hurry, son? Why? Why hurry to meet death? No, he lies in wait, licking his greedy lips—he feasts too much these days. But yes, we will go—."

Silently he stood and waited as she lingered over little things, loath to leave the house—

"Oh, do hurry, mother."

"Yes, yes, how impatient you are. That is because you are so young." She sighed deeply. "So young, and death waits—"

"Don't mother. We will fight. We will win. We will not lose. The courage, the spirit is ours. The will to dare and fight. All our liberties are at stake, how can we lose?"

"Yes, yes, of course—how can we lose?" she sighed again. "But son, you are full grown in mind and body. You are as noble of form and bearing as any rich man's son—if death does come to you?"

"Mother," he answered very quietly, "do not fear. I am not afraid. The cruel enemy will not find in me a weakling or a coward. I will weep no tears."

"Thanks, son. That is what I wished to hear."

"Are you ready, mother?"

"Just this, see, these are our only jewels—earings that my mother gave me when I married your father. Her mother gave them to her. I had hoped, dreamed that some day—I would place them in the ears of your lovely bride."

"Come, come mother of what use these? Let us go."

"Yes, yes, of what use these jewels—or any other possessions. Man lives and hopes, dreams and labors, and presto, everything is shattered—the work of a lifetime dies in ruins and the hands of the worker lie stilled. But come, I will take these with me. Hope is still stronger—as strong a thread as life itself." With a last look about the place, she poised the bundle on her head, took the jug of wine in her hands, and with carriage straight and dignified, walked, a little heavily, towards the door, Ricardo with musket and bag following close behind. Outside on the threshold she closed the door softly, lingerly, her hand still on the knob. Ricardo impatient walked away a few feet then stopped, afraid she would break down, he cried out, "Come on, mother dear, let us go."

"Yes, yes, son, I am coming. Just a few minutes more—before I meet death?"

Ricardo swallowed hard. "We are going to meet a new life—mother—not death—." He walked on again then turned back and standing still said, "I am waiting, mother."

"I am coming," she answered and released the door knob. She made a few steps forward. Then, she braced herself and with fresh courage and a new dignity in her voice, said, "Now, son, I can go. I have said all my farewells. Now—on to the fight"—she began to walk more briskly towards Ricardo.

Suddenly, a rain of bombs forever falling over the city from the aeroplanes flying overhead fell and crashed. The house was wrecked and the mother—torn to bits. . . . The jug splintered and the red wine mingled with the darker blood of the woman. The ear-rings lay mocking, glittering in the wrecked and scattered contents of the torn little red shawl in the mud, strewn with glass and fast colored by the blood and wine around it. It had all happened in an instant. Ricardo, dazed, ran to what had been his mother and knelt down. "Mother," was all he could whisper hoarsely, "Mother." He could not weep. Other people gathered round. They stood by and when the boy lifted his face, an old woman crossed herself and murmered, "Santa Maria", for the face was the face of the loving boy she had known so well. Some tried to stay the youth a little while, but he broke away. "Let me go" he cried hoarsely, feverishly, "Let me go. I must hurry. I still have my life to give." . . . .

Lilly Sarnoff

OUR POETS SING

Dictators

Venus flycatchers:
where
propaganda is the scent,
bayonets the gaping jaws,
militancy the gastric pool,

And the people
are the flies.

* * *

Democracy

Freedom
Of speech, press, belief;
Worth living for:
Worth dying for;
Kept only alive
By Republicans
When the Democrats
Are in power:
And vice versa;
Yet
Belonging to none.

* * *

War

Prostitute:
on the street corner
of the world,
flaunting your wares,
and caresing your hair
imbrued of men
who

Under your passionless eyes
became Trilbys;
in your panting breath
became poisoned;
hearing your endearments
became slaves;
feeling your fingers
became paralyzed;
straining to your body
became corrupt;

And having expended themselves
were cast down
amongst your other
excrements.

ARNOLD BATES CARROLL

Demagogue of the World of Steel

I

Railway train
King of fire-snorting dragons
Travelor of steel rails
Demagogue of the world of steel:
Thou art but the genus of the fabled giant at the command of Aladin, our unprincipaled commercial magnates of the big belly.

And the magic lamp which he rubs to acquire your presence and your untiring efforts and the efforts of all mankind
Is the round, flat and shiny disk, a gold eagle of the United States of America.

A gold eagle of the land of eagles, and of which greater by far is the eagle of corrupt commerce:
the setter of wages
the former of prices
the eagle that preys upon the people,
Yeh—as the great eagles of our western mountain craigs prey upon the animals and fouls of the open plains.

II

Railway train
King of fire-snorting dragons
Travelor of steel rails
Demagogue of the world of steel:
Thou art a reptile, a dragon, a bewitched monster of the era of glamour and halerious living.

A beast of prey, devouriner of the braud oceans of waving wheat; of the collon belts;
The fruit orchards; the corn fields,
parasite upon the lives of men.

As you speed over the country-side, through city, and village, and along sea-coasts, belching black smoke, poluting the crystaline air; shreaking, wailing through the night, you behold the domain you have conquered for your Aladin.
For the Aladin without scruples, without principles, but with the round, flat and shiny gold eagle of the United States of America.

J. C. CREWS

SEBASTIEN FAURE

Sebastien Faure is the oldest militant Anarchist. He devoted his whole life to the freeing of mankind. One year ago he wrote to me: "I have retained my health and activity although I reached my eightieth birthday on the 6th of January."

Faure, unlike many of us, did not become an Anarchist in his youth. The teachings imposed upon him by his parents forced him later in life to struggle in order to free his brain from all kinds of prejudices. In his early life he saw humanity toiling to get out of the darkness and religious fear in order to reach the light of reason and common sense.

Educated by the Jesuits, the youth's mentality rejected the spiritual dogma; he alone could properly describe the hardship of his inner struggle. Faure could not stop midway in his sifting of thoughts; all dogmatic ideas, patriotism, race, privilege, and authority, he thoroughly analyzed. Faure became an Anarchist.

Then the Anarchist anxiously wanted to make up for the years he lost. And in the fifty years of his activity in the movement we can say that Faure did not lose any time—not even the days he passed in prison.

Because of his oratorical faculty, known as one of the best in France, he preferred lectures as his means of propaganda. Faure, the speaker, is clear, flowing, lyric, concise, fascinating, cutting, and gentle at the same time. With the consent and kindness of all he is allowed the last word at the Paris meetings. In lectures he is magisterial; in debates with priests and authoritarians he is unbreakable. Because of this specialization Faure does not write much; by that I mean he does not write works of vast bulk. He wrote: La Douleur Universelle, Les Crimes de Dieu, Les Douze Preuves de la Non-Existence de Dieu, and Mon Communisme, the last one is in pamphlet form.

However, Faure's masterpiece is "L'Encyclopedie Anarchiste". This work will remain the greatest and most daring enterprise that will give students and thinkers the Anarchist Ideas in all their relations to the human race. It is a powerful means of culture for which the Anarchists the world over can be thankful to him. (The French language is accessible to students of any country.) Faure, when already an elderly man, worked ten years to produce it. He gathered around him the best writers and sympathizers who were free from political nonsense. Each gave his or her contribution in their own particular domain. Faure coordinated the whole in a work which until now has not attracted the attention of our world-wide comrades. The Encyclopedia is composed of four large volumes of 3000 pages each and weighs 22 pounds. It is true that not many of us read French, still I believe that the Encyclopedia should be in the libraries of our groups.

* * *

Faure was always consistent: he remained steady during the war period of 1914; and never gave ground to the persecution of Clemenceau during the latter's dictatorial years. When red France morally sank into the war morass, when the social-democrats, following the revenge, looked to the ballot-box for their moral rehabilitation, when the French Confederation of Labor of Jouheaux dragged their forheads upon the Ministerial carpets, when . . . . . Faure was always close-fisted and tenacious. Once more he demonstrated the progressive and contagious power of the work of one man who knows how to make his very life speak for his ideas.

And this is the secret of Anarchist superiority though its small minority.

More fortunate than Malatesta, Galleani, Fabri, Vezzani, Gori, and others, Sebastien Faure lives to greet the famous day of vast social revolution in Spain. Faure went there and returned to Paris to be active in the defense of the Spanish masses.

We wish, comrade Sebastien, that your health and events give you the opportunity of seeing the downfall of the —multicolor—Fascisms of the world!

Many years to you!

Armando Borghi

(Translated by Jules Scarceriaux from "L'Adunata")

The hypocricy of organized Society! The very foundation of its existence rests upon the negation and defiance of every professed principle of right and justice. Every feature of its face is a caricature, a travesty upon the semblance of truth; the whole life of humanity a mockery of the very name. Political mastery based on violence and Jesuitery, industry gathering the harvest of human blood; commerce ascendent on the ruin of manhood—such is the morality of civilization. And over the edifice of this stupendous perversion the Law sits enthroned, and Religion weaves the spell of awe, and varnishes right and puzzles wrong, and bids the covering held intone, "Thy will be done!"

—ALEXANDER BERKMAN

WHEN LAW ENFORCERS COMMIT MURDER

On the night of November 30, 1935 a gang of uniformed police of the city of Tampa, Florida, marched into a private house and seized E. F. Poulnot, Dr. S. G. Rogers and Joseph Shoemaker, as the three men were discussing plans of activity for their newly organized "Modern Democrats" club.

Headed by the chief of police, the badged-gangsters dragged their victims to police headquarters where they were flogged into unconsciousness. Shoemaker subsequently died as a result of the administered beatings.

The authorities of Florida, from the Government down, refused to prosecute the identified gangster-murderers. The general protest evinced throughout the country finally resulted in the staging of a "trial" with a packed jury and a biased judge. The expected whitewash verdict of "not guilty" was brought in. Two more trials followed, the last one just ended in June, when for a third time all the accused were found not guilty.

Legal Justice has long proven itself as heartless, blind and deaf. The ease with which the gangster-murderers, wearing badges of law, have been acquitted, substantiates this contention but once again.

To the still doubtful, one can point to another case in that very state of Florida. Franklin P. McCall, the kidnapper and son of a preacher, who is now awaiting execution for the kidnapping of James Bailey Cash, Jr. McCall"s defense is in his wanting to provide things for his wife with the $10, 000 ransom money. And back in 1933 the same state of Florida executed Zangara ten day after having fired upon President Roosevelt, and missing him, his shot killed the then mayor of Chicago, Cermak. Zangara's defense was: his inability to tolerate any longer an unjust system of society—and laying the chief blame for his act upon the head of the system's government.

The sworn upholders of "law and order" go scot-free when committing murder. The McCalls and Zangaras—whose very deeds are but the fruits of the seeds that an unjust society has sown—meet with swift punishment for the crimes which the present system itself has brought them about to commit.

* * *

The freeing of the gangster-police in Florida has evoked the usual meek protest within the radical and liberal circles. Demands for bringing the La Follette Civil Liberties Senate Committee to Florida have been dully made by these circles, as was done on numerous similar occasions.

In the murdering of 27 workers in the steel industry in 1937 the La Follette Committee made its investigation. It placed the murders at the doors of the law-badge holders. But not a single one of them was even brought to stand trial.

Lives of workers in this land "of the free and the brave" is of very little value or concern not alone only to capitalism and its state protector, but even to the so-called organized labor movement. The American Federation of Labor as much as the C. I. O., both share equal responsibility for failing to act in behalf of the valiant fighters and victims of the present debaseful and unbearable system of capitalism.

As long as the fate of the Shoemakers, the steel worker victims fail to become the concern of every exploited and ruled human being in the land—no life of any worker is safe from being subjected to a similar fate.

M. G.

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Erratum

The name of Laurence Labadie, given in the June issue as the compiler of the bible quotations was erroneous. He copied it from an old magazine for our use.

* * *

Due to a misunderstanding I gained the impression that Max Stephen, the author of the article "Discipline and Anarchy" (April issue of MAN!), and on which article I answered in the June issue, was the editor of "Le Libertaire" He is only a collaborator in our contemporary of France.

M. G.

INTER NOS

Our comrades in Los Angeles have established a record for MAN! during the first year of its being published here. Not a single issue was skipped. And it should be borne in mind that during this trying period the Government has raided us and jailed the editor twice. This achievement though could never have been made possible without the cooperation of the comrades as individuals and through their Groups.

It is only during the last 2-3 months that the deficit of MAN! keeps mounting to proportions threatening its very life, not to speak of its regular monthly appearance.

For the past six years MAN! is the only publication in the English language of this country that is not afraid to own up to the ideal of Anarchy, and undoubtedly this is the chief reason why the pretentious "liberal democratic" Government is bent upon the silencing of our voice.

Those who have made possible the appearance of MAN! for the last six years—despite all the attempts of the "new deal" regime to destroy it—will, we feel certain, not fail to redouble their efforts, once they are made aware of the material crisis that is now threatening the very life of MAN!.

We ask our readers to immediately renew their subscriptions, and we urge the Groups to arrange affairs for MAN! or keep in mind our need whenever they hold general affairs for the movement.

In helping to kill our deficit you will not only assure the continued life of MAN! but also its regular monthly appearance as well. This will be the most effective answer that each and all can give to the Government's attempt to destroy our Anarchic voice.

MAN!

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FINANCIAL STATEMENT

INCOME: San Francisco Group—$25.00; Los Angeles Group—$16.89; Columbus Club, Illinois—$5.00; Gruppo Libertario—$5.00, Mass.; Celia Goldberg—$4.00 (News. sales); Probuzhdenie, Detroit—$3.00; Jack Jones—$2.00; Irving S. Abrams—$2.00; N. Chee Fung—$2.00; Harry Block—$2.00; E. Michaels, England (newspaper sales)—$1.50; Newspaper sales, San Francisco—$1.20; One Dollar Each: Billy Van, Floyd Kendall, S. S. Johnson, John Latty, Harold Johnson, H. Williams, J. Goldbaum, M. Sousa; Argentina Sanchez—.50; Tony Berza—.50. TOTAL: $83.59.

TOTAL EXPENDITURES	$112.84
Deficit from Previous issue	50.94
	$163.78
INCOME	83.59
DEFICIT	$80.19

No-War Number "Spain and the World"

Our contemporary "Spain and the World" has recently issued a special No-War issue with articles by the Editor, Ethel Mannin, Herbert Read, Heleno Modiano, John Cowper Powys and Emma Goldman.

Those wishing to obtain copies of this issue should forward five cents in postage stamps to:

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